

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

v.

JULIE ANN DEMILLE,

Defendant.

Case No. 3:18-cr-149-SI

Case No. 3:18-cr-594

ORDER

Michael H. Simon, District Judge.

On April 16, 2020, Julie Ann DeMille filed an Emergency Motion for Compassionate Release under 18 U.S.C. § 3582(c)(1)(A)(i) in these two related cases. ECF 75 (Case No. 3:18-cr-149-SI). In her motion, Ms. DeMille states that on March 29, 2020, she filed an administrative request for compassionate release with the Bureau of Prisons (“BOP”) by submitting her request to the warden of the facility where she currently is serving her sentence. *Id.* at 4. A federal court, however, may not modify a term of imprisonment after it has been imposed until “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” 18 U.S.C. § 3582(c)(1)(A); *see also Dillon v. United States*, 560 U.S. 817, 824–25 (2010).

This 30-day exhaustion provision is “mandatory.” *United States v. Holden*, Case No. 3:13-cr-444-BR (D. Or. April 6, 2020); *see also Shaw v. Bank of Am. Corp.*, 946 F.3d 533, 541 (9th Cir. 2019) (concluding that a statutory requirement is a “jurisdictional prerequisite” that must be exhausted); *United States v. Raia*, 2020 WL 1647922, at *2 (3d Cir. Apr. 2, 2020) (denying motion for compassionate release for failure to exhaust). Motions filed before the 30-day presentment period face “a glaring roadblock foreclosing compassionate release.” *Id.* at *2. Further, the Government asserts that Ms. DeMille’s failure to exhaust her administrative remedies and asks the Court to deny Defendant’s motion. ECF 77 at 2 (Case No. 3:18-cr-149-SI). Thus, the Government does not waive this statutory requirement.

The Court denies Defendant’s Emergency Motion for Compassionate Release (ECF 75) without prejudice and with leave to renew if the BOP denies Defendant’s request for compassionate release or if the BOP fails to decide Defendant’s request within 30 days of the date that the BOP received Defendant’s request, whichever comes first.

IT IS SO ORDERED.

DATED this 17th day of April, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge